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STEPHEN PUTNEY SHOE CO. v. RICHMOND, F. & P. R. CO.

Jan. 16, 1919.

[98 S. E. 11.]

1. Appeal and Error (§ 1097 (1)*)—Former Appeal—Law of Case.

—A matter fixed by a decree which has been affirmed upon a former hearing has become the law of the case, and cannot be reopened, upon subsequent appeal.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 651.]

2. Railroads (§ 72 (1)*)—Deeds—Construction.—In a suit between a shoe company and a railroad company regarding tracks to former's factory, a deed from their common grantor held to contemplate use of locomotives, and to entitle shoe company to tracks over which cars could be operated for a customary distance from plaintiff's factory, but not for the entire length of track, by pinch bars.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 419, 455.]

3. Appeal and Error (§ 1194 (2)*)—Former Appeal—Law of Case—Decree—Consideration.—A decree granting to defendant the right to permit vehicles to pass over a strip upon which plaintiff had an easement construed as in violation of an appellate judgment reversing a former decree permitting defendant to open said strip for public driveway.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 651.]

4. Easements (§ 58 (1)*)—Dominant Estate—Interference with Use.—The proposed opening for driveway purposes of a strip over which plaintiff had an easement held to conflict with the dominant right of use.

Appeal from Circuit Court, Henrico County.

Suit by the Stephen Putney Shoe Company against the Richmond, Fredericksburg & Potomac Railroad Company. From a decree therein the former appealed, and the case was affirmed in part and reversed and rendered in part, and subsequently the railroad company filed its petition to reinstate in the circuit court, and the Putney Company filed answer, and appeals from a decree rendered. Decree amended and affirmed.

S. A. Anderson and *A. G. Collins*, both of Richmond, for appellant.

John S. Eggleston, of Richmond, for appellee.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.